

CALIFORNIA COASTAL COMMISSION

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January 22, 2003

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TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: DEBORAH N. LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO DISTRICT
DIANA LILLY, COASTAL PLANNER, SAN DIEGO DISTRICT

SUBJECT: **Staff Recommendation on San Diego Unified Port District Port Master Plan Amendment No. 33 (America's Cup Harbor).** For Commission consideration and possible action at the Meeting of February 5-7, 2003.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending that the Commission approve, in part, and deny, in part, the proposed amendment to the certified Port District Master Plan which would allow for the redevelopment of the America's Cup Harbor area, previously known as Commercial Harbor. The amendment includes the development of up to 130 new hotel rooms at the former Westy's Lumber Yard and 80 rooms at the existing Chevron gas station lot, redevelopment of the former Bay City Marine lot including new marine services, a new restaurant, new retail uses, and a park/green space, renovation of the existing Kettenburg Boatyard including construction of a walk-up food plaza and a public access walkway, a partial street vacation and roadway realignment at North Harbor Drive, construction of a new 50-slip marina expansion, demolition and renovation of existing structures on the west side of Shelter Island Drive in order to cluster buildings and create new view corridors from Shelter Island Drive, and expansion of the existing public waterfront promenade and the creation of new public view corridors.

The project also involves changes in land and water use designations. Overall, land area designated for Marine Sales and Services would be decreased by 2.3 acres, Commercial Recreation would be increased by 3.5 acres, Sportfishing would increase by .6 acres, Park would increase by .3 acres, and Promenade would increase by .8 acres.

Overall, water area designated for Marina Services Berthing would be decreased by 3.3 acres, and area designated for Recreational Boat Berthing would increase by 3.3 acres.

Staff is recommending that the Commission deny the portion of the PMPA that would redesignate 1.1 acres of the Westy's Parking Lot to Commercial Recreation, and the 1.3-acre portion of Bay City Marine from Marine Sales and Services to Commercial Recreation. Also, staff is recommending denial of the proposed changes to the project

list that allow for a new restaurant and new restaurant and retail on the Bay City Marine site.

The proposed intensification of use associated with the redesignation of portions of the Westy's Parking Lot and Bay City Marine sites from Marine Sales and Services to Commercial Recreation would substantially increase the number of traffic trips and the demand for parking in the area, result in adverse impacts on traffic and circulation and the ability of the public to access the shoreline. Eliminating this portion of the proposed amendment will allow the Port District to proceed with the majority of the plan elements, including the construction of new public accessways, park areas, the new marina, and the proposed redevelopment on the Shelter Island Drive corridor, which are expected to have a positive impact on public access and recreational opportunities, and can be found consistent with Chapter 3 and Chapter 8 of the Coastal Act.

Staff recommends that the Commission find the portion of the PMPA that would redesignate the 1.2 acre Westy's Parking Lot and the 1.3 acre portion of Bay City Marine from Marine Sales and Services to Commercial Recreation, and the portion of the project list adding new restaurant and retail to the Bay City Marine site, as submitted, inconsistent with the resource protection, public access and recreation policies of Chapter 3 and Chapter 8 of the Coastal Act, and recommends denial of this part of the amendment.

Staff further recommends that the remaining portions of the amendment relating to redevelopment of the America's Cup Harbor area be found consistent with Chapter 3 and Chapter 8 of the Coastal Act, and recommends approval of this part of the amendment.

The appropriate motions and resolutions can be found on Page 3. The main findings for denial of the amendment in part, and approval of the amendment in part, begin on Page 5.

Port Master Plan Amendment Procedure. California Code of Regulations, Title 14, Section 13636 calls for port master plan amendments to be certified in the same manner as provided in Section 30714 of the Coastal Act for certification of port master plans. Section 13628 of the Regulations states that, upon the determination of the Executive Director that the master plan amendment and accompanying materials required by Section 13628(a) are sufficient, the master plan amendment shall be deemed submitted to the Commission for purposes of Section 30714 of the Coastal Act.

The subject amendment was deemed submitted on October 31, 2002. Within 90 days after this submittal date, the Commission, after public hearing, shall certify or reject the amendment, in whole or in part. If the Commission fails to take action on the amendment submittal within the 90-day period, the proposed amendment is deemed certified. The

Port District waived 90-day time limitation subject to the project being scheduled on the February Commission meeting.

STAFF RECOMMENDATION:

I. PORT MASTER PLAN SUBMITTAL – MOTIONS AND RESOLUTIONS

MOTION I: *I move that the Commission certify the portion of the Port of San Diego Master Plan Amendment No. 33 that includes the redesignation the 1.2 acre Westy's Parking Lot and the 1.3 acre portion of Bay City Marine from Marine Sales and Services to Commercial Recreation, and the portion of the project list adding new restaurant and retail to the Bay City Marine Redevelopment.*

STAFF RECOMMENDATION OF PARTIAL REJECTION OF PORT MASTER PLAN AMENDMENT:

Staff recommends a **NO** vote. Failure of this motion will result in rejection of the identified provisions and adoption of the following resolution and findings. The motion to certify passes only upon an affirmative vote of a majority of the Commissioners present.

RESOLUTION FOR PARTIAL REJECTION OF PORT MASTER PLAN AMENDMENT:

The Commission hereby denies certification of the portion of Port of San Diego Master Plan Amendment No. 33 that includes the redesignation the 1.2 acre Westy's Parking Lot and the 1.3 acre portion of Bay City Marine from Marine Sales and Services to Commercial Recreation, and the portion of the project list adding new restaurant and retail to the Bay City Marine site, and adopts the findings set forth below on grounds that the amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 and Chapter 8 of the Coastal Act. Certification of the amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the amendment.

MOTION II: *I move that the Commission certify the remainder of the Port of San Diego Master Plan Amendment No. 33.*

STAFF RECOMMENDATION OF PARTIAL CERTIFICATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the remainder of the port master plan amendment and adoption of the following resolution and findings. The motion to certify passes only upon an affirmative vote of a majority of the Commissioners present.

RESOLUTION FOR PARTIAL CERTIFICATION OF PORT MASTER PLAN AMENDMENT:

The Commission hereby certifies the remainder of the Port of San Diego Master Plan Amendment No. 33 and adopts the findings set forth below on grounds that the remainder of the amendment is consistent with Chapter 8 and Chapter 3 of the Coastal Act. Certification of the remainder of the amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the port master plan amendment.

II. FINDINGS AND DECLARATIONS.

The Commission finds and declares as follows:

A. Previous Commission Action. The Commission certified the San Diego Unified Port District Master Plan on October 14, 1980. The Commission has reviewed approximately thirty-two amendments since that date.

B. Contents of Port Master Plan Amendments. California Code of Regulations Title 14, Section 13656 calls for port master plan amendments to be certified in the same manner as port master plans. Section 30711 of the Coastal Act states, in part, that a port master plan shall include all the following:

- (1) The proposed uses of land and water areas, where known.
- (2) The proposed design and location of port land areas, water areas, berthing, and navigation ways and systems intended to serve commercial traffic within the area of jurisdiction of the port governing body.
- (3) An estimate of the effect of development on habitat areas and the marine environment, a review of existing water quality, habitat areas, and quantitative and qualitative biological inventories, and proposals to minimize and mitigate any substantial adverse impact.

- (4) Proposed projects listed as appealable in Section 30715 in sufficient detail to be able to determine their consistency with the policies of Chapter 3 (commencing with Section 30200) of this division.
- (5) Provisions for adequate public hearings and public participation in port planning and development decisions.

The Commission finds that the proposed port master plan amendment conforms to the provisions of Section 30711 of the Coastal Act. The proposed changes in land and water uses are outlined in sufficient detail in the port master plan submittal for the Commission to make a determination of the proposed amendment's consistency with the Chapter 3 and Chapter 8 policies of the Coastal Act.

The proposed amendment was the subject of an Environmental Impact Report under the California Environmental Quality Act. The EIR associated with the plan amendment was subject to public review and hearing and was adopted by the Board of Port Commissioners on May 21, 2002 as Resolution 2001-119. A public hearing on the proposed master plan amendment was held and the amendment was adopted by the Board of Port Commissioners on May 21, 2002 as Resolution 2002-120.

Standard of Review. Section 30710 states that Chapter 8 shall govern those portions of the San Diego Unified Port District, excluding any wetland, estuary, or existing recreation area indicated in Part IV of the Coastal Plan. The entire water area under the jurisdiction of the Port of San Diego is covered by Chapter 3 policies because San Diego Bay is mapped as an estuary and wetland in Part IV of the Coastal Plan, and on the maps adopted by the Commission pursuant to Section 30710 of the Act. The proposed Amendment involves changes to the land and water designations at America's Cup Harbor and Shelter Island. The policies of Chapter 8 of the Coastal Act are the standard of review for the land portion of the proposed amendment, and Chapter 3 policies are the standard of review for the portion of the amendment addressing the water area. In addition, Chapter 3 is the standard of review for all projects appealable to the Coastal Commission, including the realignment of North Harbor Drive, the proposed hotel expansion, and the Bay City Marine and Sun Harbor redevelopment.

D. Summary of Proposed Plan Amendment.

The proposed port master plan amendment (PMPA) involves changes to the text, land and water use tables and graphics within the Port District's Planning District 1 – Shelter Island. The proposed changes would allow for the redevelopment of the America's Cup Harbor area, previously known as Commercial Harbor, including allowing the development of up to 130 new hotel rooms uses at the former Westy's Lumber Yard and 80 rooms at the existing Chevron gas station lot, redevelopment of the former Bay City Marine lot including new marine services, a new restaurant, and new retail uses, renovation of the existing Kettenburg Boatyard including construction of a walk-up food

plaza and a public access walkway, a partial street vacation, roadway realignment and new roundabout at North Harbor Drive, construction of a new 50-slip marina expansion, demolition and renovation of existing structures on the west side of Shelter Island Drive in order to cluster buildings and create new view corridors from Shelter Island Drive, and expansion of the existing public waterfront promenade and the creation of new public view corridors.

The project also involves changes in land and water use designations. Overall, land area designated for Marine Sales and Services would be decreased by 2.3 acres, Commercial Recreation would be increased by 3.5 acres, Sportfishing would increase by .6 acres, Park would increase by .3 acres, and Promenade would increase by .8 acres.

Overall, water area designated for Marina Services Berthing would be decreased by 3.3 acres, and area designated for Recreational Boat Berthing would increase by 3.3 acres.

The land use changes would occur in the following locations. The 1.7-acre former Bay City Marine would be redesignated from Marine Sales and Services to 1.3 acres of Commercial Recreation, .3 acres Park and .1 acres Promenade. The 1.2-acre Westy's Parking Lot would be redesignated from Marine Sales and Services to 1.1 acres Commercial Recreation and .1 acre Promenade. A 2.9-acre portion of the right-of-way west of North Harbor Drive, south of Scott Street, would be redesigned to 1.9 acres of Commercial Recreation, .6 acres of Sportfishing, .2 acres of Park/Plaza, and .2 acres of Promenade. Approximately .2 acres of the 2.3-acre Kettenberg Boatyard would be redesignated from Marine Sales and Services to Promenade. Along Shelter Island Drive, .2 acres of Commercial Recreation designated land on the west side of the street would be redesignated to Marine Sales and Services. An existing .6-acre parking located northeast of the Shelter Island traffic circle would be redesignated from Commercial Recreation to Marine Sales and Services. At the Shelter Island Drive roundabout, .2 acres of land would be redesignated from Park to Promenade.

The changes in water use designation are at the Bay City Marine site (3.9 acres of water redesignation from Marine Services Berthing to Recreational Boat Berthing) and west of Shelter Island Drive (.6 acres of Water from Recreational Boat Berthing to Marine Services Berthing). Page 52 of the proposed PMPA (Exhibit #1) shows the existing land use designations and the proposed designations.

In addition, the proposed PMPA (as amended from its original submittal) would change the definition of the "Marine Sales and Services" designation to allow (proposed language underlined) "Ancillary uses, when specifically provided for in the property lease, include fish transshipment and no more than 10% of the site may be used for walkup window-type food and beverage services with limited outdoor table seating provided such uses do not materially interfere with the function and operation of the primary Marine Sales and Services use." This definition would apply to any location with the Marine Sales and Services designation. In the case of the proposed PMPA, an

additional 8,100 sq.ft. of the Kettenberg Boat Yard would be redeveloped as a walk-up food court, although the designation of the site would remain Marine Sales and Services.

Section 13634 of the Code of Regulations allows for minor, immaterial changes to a port master plan (amendment) after submission of the plan. In January 2003, the Port submitted revised text language to adding specificity to the sections of the proposed plan regarding the allowance of food and beverage services in the Marine Sales and Services Designation, the replacement of boat trailer parking, the parameters of the redevelopment at the Westy's Lot and the need for additional environmental review for any increases in water coverage (see Exhibit #3). These changes provide more specificity and increase protection of coastal resources, and are not considered a material amendment to the PMPA submittal.

E. Conformance with the Coastal Act. The proposed amendment would result in changes to land and water use categories, and to the text and Precise Plan map contained in Planning District 1 (Shelter Island) of the Port Master Plan. In order for the Commission to certify the proposed master plan amendment, the Commission must determine that the amendment conforms to the following applicable Chapter 3 and Chapter 8 policies of the Coastal Act:

1. Applicable Policies

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

[...]

Section 30213.

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30230.

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233.

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities....

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Section 30235.

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to

protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation

Section 30255.

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30703.

The California commercial fishing industry is important to the State of California; therefore, ports shall not eliminate or reduce existing commercial fishing harbor space, unless the demand for commercial fishing facilities no longer exists or adequate alternative space has been provided. Proposed recreational boating facilities within port areas shall, to the extent it is feasible to do so, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30705.

(a) Water areas may be diked, filled, or dredged when consistent with a certified port master plan only for the following:

(1) Such construction, deepening, widening, lengthening, or maintenance of ship channel approaches, ship channels, turning basins, berthing areas, and facilities as are required for the safety and the accommodation of commerce and vessels to be served by port facilities.

(2) New or expanded facilities or waterfront land for port-related facilities.

(3) New or expanded commercial fishing facilities or recreational boating facilities.

(4) Incidental public service purposes, including, but not limited to, burying cables or pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in biologically sensitive areas.

(6) Restoration purposes or creation of new habitat areas.

(7) Nature study, mariculture, or similar resource-dependent activities.

(8) Minor fill for improving shoreline appearance or public access to the water.

(b) The design and location of new or expanded facilities shall, to the extent practicable, take advantage of existing water depths, water circulation, siltation patterns, and means available to reduce controllable sedimentation so as to diminish the need for future dredging.

(c) Dredging shall be planned, scheduled, and carried out to minimize disruption to fish and bird breeding and migrations, marine habitats, and water circulation. Bottom sediments or sediment elutriate shall be analyzed for toxicants prior to dredging or mining, and where water quality standards are met, dredge spoils may be deposited in open coastal water sites designated to minimize potential adverse impacts on marine organisms, or in confined coastal waters designated as fill sites by the master plan where such spoil can be isolated and contained, or in fill basins on upland sites. Dredge material shall not be transported from coastal waters into estuarine or fresh water areas for disposal.

(d) For water areas to be diked, filled, or dredged, the commission shall balance and consider socioeconomic and environmental factors.

Section 30706.

In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:

(a) The water area to be filled shall be the minimum necessary to achieve the purpose of the fill.

(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal

resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water.

(c) The fill is constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters.

(d) The fill is consistent with navigational safety.

Section 30708

All port-related developments shall be located, designed, and constructed so as to:

(a) Minimize substantial adverse environmental impacts.

(b) Minimize potential traffic conflicts between vessels.

(c) Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.

(e) Encourage rail service to port areas and multicompany use of facilities.

1. Public Access/Traffic/Parking.

The proposed land use changes and additions to the project list would allow the construction of up to 265 new hotel rooms on North Harbor Drive, new restaurants and retail establishments at the Sun Harbor Marina and former Bay City Marine sites, and new commercial recreation uses. The EIR prepared for the PMPA compared these uses with the existing, mostly marine sales and services uses in the America's Cup Harbor area, and determined that overall, a daily increase of approximately 4,687 trips would result from implementation of the proposed project.

The impact this would have on surrounding streets, and thus, on public access to the shoreline, varies. At the time the project was reviewed in the EIR, as much as 8,337 trips were contemplated. Under this scenario, significant impacts to traffic and circulation were expected to occur on Rosecrans Street, Scott Street, Shelter Island Drive, and Talbot Street, all of which would have road segments operating at Level of Service (LOS) E or F after implementation of the plan. Exhibit #3 shows these street segments in relation to the project area.

Specifically, the EIR identifies that the addition of traffic from the proposed project will have the following significant impacts:

- Rosecrans Street: North of Nimitz Boulevard (LOS F)
- Rosecrans Street: South of Talbot Street (LOS F)
- Rosecrans Street: Canon Street to Byron Street/Shelter Island Drive (LOS F)
- Rosecrans Street: North Harbor Drive to Nimitz Boulevard (LOS E)
- Rosecrans Street: Shelter Island Drive to North Harbor Drive (LOS F)
- Scott Street: Talbot Street to Shelter Island Drive (LOS F)
- Scott Street: Shelter Island Drive to North Harbor Drive (LOS F)
- Shelter Island Drive: Rosecrans to Scott Street (LOS F)
- Shelter Island Drive: Scott Street to Anchorage Lane (LOS F)
- Shelter Island Drive: Anchorage Lane to north of Roundabout (LOS F)
- Shelter Island Drive: Entrance to Roundabout (LOS F)
- Talbot Street: Between Canon Street/SR209 and Rosecrans Street (LOS F)

Furthermore, the addition of traffic from the project will significantly impact the following intersections:

- Rosecrans Street at Nimitz Boulevard (AM Peak Hour: LOS F)
- Rosecrans Street at Nimitz Boulevard (PM Peak Hour: LOS F)
- Rosecrans Street at North Harbor Drive (PM Peak Hour: LOS F)

Of particular concern under the Coastal Act are the impacts to Rosecrans, Talbot, and Shelter Island Drive, which are major coastal access routes. (With the proposed improvements to North Harbor Drive, the other major coastal access in the project area, impacts on this roadway will be less than significant).

The EIR suggests that these impacts could be mitigated through improvements to and widening of Rosecrans, Shelter Island Drive, Talbot and Scott Street, and through improvements to public transit coverage. However, these street segments are within the City of San Diego's jurisdiction, and physical improvements to the streets, that is, street widening, would most likely require demolition of existing structures, which is not considered feasible or desirable.

Therefore, the Port has taken a two-pronged approach to mitigating the traffic impacts. First, as noted above, the scope of the projects proposed in the PMPA has been scaled back considerably from what was reviewed in the EIR. Several proposed restaurants and retail uses on Shelter Island Drive and Kettenburg Marine have been eliminated reducing the overall trip generation rate of the plan by approximately 44%, to 4,687 trips. It is clear that these changes will reduce the anticipated traffic impacts to surrounding streets; however, new traffic studies have not been done since the plan was revised, so the exact extent of the improvement is unknown.

Secondly, the Port has developed a transportation demand management (TDM) plan to address traffic impacts. The transportation demand management recommendations are designed to reduce the number of solo drivers by promoting walking, bicycling, carpooling, vanpooling, public transportation and other alternative modes of transportation. The Port has also committed to working with the Metropolitan Transit Development Board to explore options for extending a bus line route or shuttle service out to the Shelter Island traffic circle. Nevertheless, these measures are not expected to eliminate all of the significant traffic and circulation impacts resulting from the project.

Redevelopment efforts almost always present challenges with regard to traffic and circulation patterns. The Coastal Act supports the construction of new development in existing developed areas to decrease sprawl and impacts to open space. Yet many older neighborhoods were planned with street patterns and parking and traffic capacities that are inadequate for the levels of automobile use now usually associated with denser development.

The roadway system around America's Cup Harbor was developed many years ago and traffic volumes have increased gradually over the years as development in the area has intensified. There have been few improvements made to the roadway segments in the vicinity over the past several years, and as a result, the area has experienced growth in traffic without increases in roadway capacity. Traffic is expected to worsen even without new construction in the plan area. Mitigating these circulation impacts is problematic since, as previously noted, widening the streets to provide increased capacity would entail substantial right-of-way acquisition and roadway construction and would alter the character of the community. In many cases, existing development patterns preclude roadway widening.

Thus, the Commission is faced with the challenge of balancing the advantages of redeveloping an existing neighborhood, which discourages sprawl, makes the most of existing urban services, and is adjacent to the waterfront amenities desirable to new development, with the reality that the existing circulation system will very likely be burdened, with commensurate impacts to public access to the shoreline.

In the case of the proposed amendment, many of the impacts to coastal access resulting from increased traffic at the project site would be indirect, but still important. While the traffic impacts would be concentrated at peak commuter hours on weekdays, during the peak summer months, the demand for access to the shoreline is fairly constant, occurring on weekday mornings and evenings as well as weekend hours, and thus public access would be impacted.

The Commission acknowledges that *any* redevelopment around America's Cup Harbor will increase traffic. But it is clear from the traffic studies that the bulk of the impact will come from the redesignation of Marine Sales and Services to Commercial Recreation and subsequent intensification of use proposed on the vacant lot at the Bay City Marine (new

restaurant and retail) the Westy's parking lot (130 new hotel rooms). Based on the traffic and circulation information currently available, this portion of the proposed amendment will have a substantial adverse impact on several major coastal access routes, and thus, will adversely impact the ability of the public to access the shoreline.

The proposed Master Plan does not contain specifics on the size of the proposed new retail and restaurant facilities proposed. Thus, it is possible that at the time these site were actually redeveloped, development could be scaled back or the traffic impacts associated with a particular project could be mitigated. However, as proposed, the impacts of the redesignation of these sites to Commercial Recreation, and the new proposed restaurant and retail, are significant and unmitigatable, and cannot be found consistent with the public access policies of the Coastal Act.

With regard to parking, the EIR for the amendment estimated that compared to existing conditions, the proposed project would generate an increased peak season (the mid-May to mid-October sportfishing season) parking demand of 486 spaces, while adding 371 spaces. These figures are based on the project as proposed in EIR, so parking demand most likely has been reduced as the project has been scaled back. However, the figures in the EIR constitute the only parking information available at this time. Thus, the project would result in a 116-space parking shortfall. In addition, a parking study undertaken for the amendment determined that there is an existing, 251 space parking shortfall in the East Harbor area (the North Harbor Drive Corridor/Sportfishing Landing area) during the 5-month sportfishing season--which includes the peak recreational summer months. Thus, in total, there would be a 367-space parking shortfall with the proposed parking.

There is currently an approximately 518-space parking surplus on the Shelter Island corridor side of America's Cup Harbor. With the proposed project, this surplus is projected to decrease by approximately 151 spaces, still leaving a 367 surplus.. But without a shuttle program to move people from one side of the harbor to another, this remaining surplus cannot offset the parking deficit in the East Harbor.

In order to address the parking shortfall, the Port has revised the language in the proposed amendment to require that all proposed new projects meet the parking ratios contained in the Port's Tidelands Parking Guidelines. These guidelines are not part of the certified PMP; however the ratios for restaurants (1 space per 108 sq.ft.), retail (1 space per 256 sq.ft.), office (1 space per 357 sq.ft.), as well as those for hotels, marine sales/service uses, and so forth, are within the range of parking ratios commonly approved for coastal cities in San Diego County.

In addition, the Port has proposed implementation of a transportation demand program to promote and facilitate the use of transit, carpooling and other measures to reduce parking demand, as well as the requirement that a new development provide parking to meet parking demand. Finally, one of the proposed projects, the hotel expansion on the former Westy's Lumber Yard Site, would be located on an existing publicly available parking

lot. This lot currently provides 185 paid parking spaces which would be removed if and when the hotel expansion is constructed. The proposed PMPA contains language requiring the relocation and full replacement of these 185 public parking spaces prior to closing the Westy's Lot. The proposed narrowing of Harbor Drive and construction of new parking spaces is expected to generate a sufficient number of spaces to replace these 185.

The EIR concludes that the requirement that new developments provide adequate parking for the demand they will generate, and the Transportation Demand Program, will ensure that the new projects being added to the project list will not individually result in parking shortfalls that could impact public parking. However, the existing parking shortages in the area will remain, and thus, the EIR concludes that cumulative impacts to parking are considered significant and unmitigable. The parking study done for the project also concluded that the TDM would not have a significant effect on parking within the America's Cup Harbor area.

Thus, the proposed increase in intensity of use at the Westy's Lot, the Bay City Marine and the creation of additional restaurant and retail uses at the Bay City Marine site will result in adverse impacts to public coastal access opportunities, inconsistent with the public access policies of Chapter 3 and Chapter 8 of the Coastal Act, and must be denied.

The other portions of the amendment, including the proposed redesignations of portions of the Westy's Lot and Bay City Marine to Park and Promenade, will increase public access and recreational opportunities, consistent with the Coastal Act, and thus, the Commission finds the remaining portions of the amendment to be consistent with the Coastal Act. The small increases in traffic and parking demand associated with these developments will be offset by the increased availability and quality of public access and recreational facilities, which will, on balance, positively impact public shoreline access.

2. Marine-Related Uses

Section 30708(c) of the Coastal Act gives the highest priority to the use of existing land space within harbors for port purposes, such as navigational facilities, shipping industries, and necessary support and access facilities. Section 30708(d) provides for the accommodation, to the extent possible, of other public trust uses such as recreation and wildlife habitat. Section 30708(e) requires all port-related development to minimize substantial environmental effects. All three of the above policies should be considered along with the underlying objectives of Sections 30705 and 30706 which are to minimize fill of coastal waters to only that necessary for specific port-related uses and to minimize harmful effects to coastal resources. Therefore, adequate existing land area should be reserved for port-related purposes so as to avoid the need for additional fill of coastal waters to accommodate future demand for such facilities.

The proposed amendment would result in a decrease in the amount of land area designated for Marine Sales and Services by 2.3 acres to 9.1 acres from its existing 11.4 acres. Water area designated for Marine Services Berthing would be decreased by 3.3 acres to 17.7 acres from its existing 21 acres.

In addition, the proposed PMPA (as amended from its original submittal) would change the definition of the "Marine Sales and Services" designation to allow (proposed language underlined) "Ancillary uses, when specifically provided for in the property lease, include fish transshipment and no more than 10% of the site may be used for walkup window-type food and beverage services with limited outdoor table seating provided such uses do not materially interfere with the function and operation of the primary Marine Sales and Services use."

The Port Master Plan contains the following description of Marine Sales and Services:

Activities such as ship chandlery; marine hardware and electronic sales; sailmaking and repair; boat covers; marine fueling stations, marine engine repair; boat building and repair; boat sales and rentals; sailing schools; temporary facilities supporting transient boats and regattas; diving and limited salvage operations; marine sign carving; nautical artifacts, and professional services such as marine architecture and marine engineering....Three major use categories in this division include boat sales, boat building and repair, and marine services berthing.

Section 30255 of the Coastal Act states that coastal-dependent developments shall have priority over other developments on or near the shoreline. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support. Section 30703 states that ports shall not eliminate or reduce existing commercial fishing harbor space, unless the demand for commercial fishing facilities no longer exists or adequate alternative space has been provided. Section 30708(c) gives the highest priority to the use of existing land space within harbors for port purposes, such as navigational facilities, shipping industries, and necessary support and access facilities.

Although marine-related and ideally located along the shoreline, most Marine Sales and Services uses are not coastal-dependent uses, but rather can be and frequently are located at inland sites. In addition, as categorized in the existing Port Master Plan, boat sales, boat building and repair, and marine services berthing are considered recreational, not commercial fishing facilities. Thus, the importance of preserving area for these uses is not as critical as it is for coastal dependent, commercial fishing, and industrial port uses.

Nevertheless, coastal-related uses are clearly high priority uses under the Coastal Act, and recent studies have indicated that there is demand for marine sales and services type uses in the America's Cup Harbor Area. The Port District has had several studies

prepared to address the issues raised by potential conversion of land and water areas designated specifically for marine industrial uses to other uses of less priority under the Coastal Act, including for the South Bay Boat Yard (PMPA #32) and the Campbell Shipyard and Fifth Avenue Landing leaseholds (#31). In addition, a specific study for the usage patterns of the subject site, the America's Cup Harbor Usage Study, dated November 30, 1999, also addressed this issue. That study determined that there is a demand for the type of marine sales and services offered in the plan area, including boat repair and marina slips, and sportfishing, and that demand is expected to increase in the future.

However, the significant decreases in Marine Sales and Services use categorization are at the Bay City Marine site (1.7 acres) which has been vacant since 1995, and the 1.2 acre former Westy's Lumber Yard which has also been closed for several years and is currently being used for a parking lot. Thus, the areas been converted apparently are not have not been required to meet the demand for marine-related uses.

The other reduction in Marine Sales and Services is proposed in the Kettenberg Boatyard. All indications are that demand for the services of this boat yard will remain steady or increase in the future. The proposed .2-acre change in land use is for construction of a promenade through the boatyard. Currently, the public is generally allow to walk through the Boatyard, but the existing formalized waterside promenade stops at the Kettenberg Boatyard and pedestrians generally travel inland along the sidewalk before picking up the promenade on the other side of the Boatyard. As proposed, there will be a continuous promenade through the Boatyard, which will be an improvement in public access and recreation. The amendment also prohibits the erection of permanent structures in the view corridors along Carleton and Dickens Streets, which will help maintain public views to the bay. The minor reduction in boatyard area for the establishment of the promenade and courtyard is not expected to adversely impact the marine sales and services use of the site.

The proposed change in the definition of Marine Sales and Services to allow food service uses has the potential to be more problematic. Allowing a small walk-up food service area in association with a use such as boat yard, is reasonable and would provide an amenity to both employees and customers who spend long days doing boat maintenance and repair on site. However, as originally submitted, there was no limit on the size of the food and beverage service permitted on the site, and no assurance that the main purpose of the site—marine sales and services—would not be compromised by the food service use. In response to these concerns, the Port District revised the submittal to limit the ancillary food service to more than 10% of the marine sales and services site, and the use cannot materially interfere with the function and operation of the primary use. Thus, this change is not expected to adversely impact the supply of marine sales and services facilities.

In summary, the proposed reductions in marine sales are services will not have an adverse impact on the availability of marine-related land around San Diego Bay. The Commission is denying the redesignation of 1.1 acres of the Westy's Parking Lot to Commercial Recreation, and the 1.3 acre portion of Bay City Marine from Marine Sales and Services to Commercial Recreation because the increase in intensity of use as a result of these conversions would have an adverse impact on public access, not on the provision of marine-related uses.

The proposed conversion of Marine Sales and Services to park and promenade uses will provide a variety of lower-cost visitor and public recreational opportunities which are preferred and protected under both Chapter 3 and 8 of the Coastal Act, and thus are not part of the land use redesignation being denied by the Commission.

Therefore, the Commission finds that, with the exception of the portion of the amendment proposing the above-described changes to Westy's Parking Lot and Bay City Marine, the changes in land and water use are consistent with the protection of priority uses, public access, and recreation policies of the Coastal Act.

3. Environmentally Sensitive Habitat Area.

Section 30230 and 30231 of the Act protect marine resources and the biological productivity of coastal waters to maintain optimum populations of marine organisms and for the protection of human health. Section 30233 prohibits diking, filling and dredging of open coastal waters and estuaries unless there is no feasible less environmentally-damaging alternative, adequate mitigation is provided, and the diking, filling or dredging activity is for one of the permitted uses identified. Section 30233 (4) would permit fill in open coastal waters for new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

The proposed plan includes construction of a new 50-slip marina and additional public land docks. New public and recreational boating facilities are encouraged under the Coastal Act; however, these projects have the potential to disturb marine plants such as eelgrass and other infauna and epifauna, and will result in a loss of open-water foraging habitat for the California least tern and Brown pelican, both of which are federally listed as threatened species. However, the precise nature and extent of these impacts will not be available until a particular project is proposed.

The EIR for the project identified very limited eelgrass bed resources in the project area. However, to ensure that at the time a specific project is proposed, any eelgrass impacts are assessed and mitigated, the EIR requires the Port District to consult with the National Marine Fisheries concerning the appropriate steps to take to prevent the loss of existing eelgrass. If preservation of all eelgrass is not possible, mitigation measures detailed in the Southern California Eelgrass Mitigation Policy shall be taken. The policy would

require the Port to demonstrate avoidance and minimize impacts, where possible, survey and map the eelgrass, identify a mitigation site, mitigate at a 1.2 to 1 ratio, and monitor the mitigation site for a 5 year period. Such impact avoidance and mitigation requirements are consistent with past Commission precedent regarding such resource impacts.

With regard to open water coverage, the EIR estimates that taking into account both the proposed construction of new structures and the removal of existing old piers, ramps, etc., there would be a 5,865 sq.ft. net increase in open water coverage, and this could impact sensitive bird species. However, as part of the ongoing redevelopment of the former Campbell Shipyard in south San Diego Bay (PMPA #31), numerous wharves and docks have been removed to create new open water areas. According to the EIR, approximately 213,386 sq.ft. of piers, aprons, margin wharf, buildings, launch ways and floating dry docks have been removed. Future redevelopment of the site would result in the potential coverage of the basin with approximately 117,869 sq.ft. of promenade, observation pier, and small 30-slip marina. This would result in a 91,517 sq.ft. net increase of open water.

Thus, in San Diego Bay overall, the amount of open water habitat is being increased, despite the proposed 5,865 sq.ft. decrease in open water proposed through the current amendment. Nevertheless, the new open water being created is not in the same location as the water area being covered, and may not serve the same habitat purpose. It is appropriate that at the time the new coverage is actually proposed, that additional environmental review take place. In response to this concern, the Port District has amended its submittal to include language specifically requiring that any increase in water coverage from that which previously existed in the project area, be subject to further environmental review and mitigation as required.

Therefore, the Commission finds adequate mitigation measures have been incorporated into the PMPA to protect the marine environment consistent with Sections 30230, 30231 and 30233 of the Coastal Act. The Commission finds the port master plan amendment to be consistent with the Chapter 3 and Chapter 8 policies of the Coastal Act regarding the protection of biological resources.

F. Consistency with the California Environmental Quality Act (CEQA).

As described above, the a portion of the proposed amendment has the potential to result in resource damage in the form of cumulative impacts to public access. The proposed amendment was the subject of a Environmental Impact Report under CEQA. The EIR was subject to public review and hearing and was adopted by the Board of Port Commissioners with a finding that the proposed amendment would result in significant environmental impacts relative to traffic and circulation. The Port District adopted a Statement of Overriding Considerations on May 21, 2002. The Port District determined that the project would have the following benefits: Creating significant new public

access, recreation and open space opportunities by creating new parks and green space, new promenade, new pedestrian and bicycle accessways, and increasing employment opportunities within the region by providing temporary and permanent jobs from the construction and operation of the project, and providing additional revenues to the region in the form of increased use, sales, and transit occupancy taxes.

The Commission finds that only denying the portion of the amendment redesignating 1.1 acres of the Westy's Parking Lot to Commercial Recreation, and the 1.3 acre portion of Bay City Marine from Marine Sales and Services to Commercial Recreation, and eliminating the changes to the project list allowing a hotel expansion and new restaurant and retail uses at the Bay City site would substantially lessen the significant adverse effect which the amendment would have on the environment. The remainder of the amendment would not result in any significant, unmitigatable environmental impacts, and thus finds the amendment as approved by the Commission consistent with the California Environmental Quality Act.